



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

March 16, 2021

Sent via email only

Carol Bill, Chairwoman
Cold Springs Rancheria of Western Mono Indians of California
P.O. Box 209
Tollhouse, CA 93667

Re: Request for Government-to-Government Tribal Consultation for an Underground Injection Control Permit at an Industrial Facility in Fresno County, California

Dear Chairwoman Bill:

The United States Environmental Protection Agency Region 9 (EPA) is reviewing an Underground Injection Control (UIC) Class VI permit application for an industrial facility located in Fresno County, California. EPA expects to make a preliminary determination to issue or deny the permit at the conclusion of our review. Pursuant to the National Historic Preservation Act of 1966 (NHPA) and EPA's Policy on Consultation and Coordination with Indian Tribes (Consultation Policy), EPA hereby offers the Cold Springs Rancheria of Western Mono Indians of California an opportunity to consult on the proposed action for the facility under review.

Proposed Facility

The proposed facility, which is further described in Enclosure to this letter, includes a power generation plant that will capture and store carbon dioxide (Clean Energy Systems – CES Mendota).

UIC Program

EPA's UIC Program, authorized under the Safe Drinking Water Act, regulates the construction, operation, permitting, and closure of injection wells used to place fluids underground for disposal, solution mining, or storage. The purpose of the UIC program is to ensure the protection of underground sources of drinking water. Class VI injection wells are used to inject carbon dioxide (CO₂) into deep rock formations. This long-term underground storage is called geologic sequestration. Geologic sequestration refers to technologies to reduce CO₂ emissions to the atmosphere and mitigate climate change. In California, EPA is directly responsible for regulation of Class VI injection wells under the UIC program. More information about the UIC program may be found at <https://www.epa.gov/uic>.

NHPA

As the permitting agency, EPA is responsible for complying with the NHPA, as amended, 16 U.S.C. § 470f. EPA has determined that the proposed project is an "undertaking" subject to the review process set forth in NHPA Section 106.

Section 106 of the NHPA requires, among other things, that Federal agencies: (1) take into account the effect of their undertakings on properties included in or eligible for inclusion in the National Register of Historic Places; (2) afford the public a reasonable opportunity to comment on such undertakings; and (3) consult with federally recognized tribes to ensure that Indian tribes which attach religious or cultural significance to historic properties that may be affected by an undertaking are provided a reasonable opportunity to participate in the process. EPA is therefore requesting your assistance in helping to

identify historic properties of traditional religious and cultural importance to your tribe that may be located within the geographic area where the proposed projects may have direct or indirect impacts. EPA is sensitive to the possibility that you may not wish to divulge information about historic properties that have cultural or religious significance. The NHPA and its implementing regulations provide protection from public disclosure of information about a historic property that might result in harm to the property, a significant invasion of privacy, or impediments to traditional religious practices at a site. Therefore, EPA is open to working with you in a manner that meets concerns that you may have regarding the sensitivity of information.

Consultation Policy

EPA is seeking consultation pursuant to the EPA Consultation Policy¹. EPA's Policy is to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. Under the Consultation Policy, EPA invites you or your designated consultation representative(s) to participate in this process.

Timeframe and Contacts

EPA expects to make a preliminary determination and open a 30-day public comment period for the proposed permit in the summer/fall 2021 and may make changes to the proposed permit based on tribal consultation or comments received. EPA will notify parties involved in this process of changes made to the proposed permit as a result of public comments or consultation. After the close of the public comment period, if there are no comments or permit changes, EPA may issue the permit as proposed. If you are interested in participating in government-to-government consultation or have information on cultural resources near the project sites, we ask that you please respond within 45 days.

We recognize that the current COVID-19 public health emergency may present challenges to the consultation process. EPA will work with the Cold Springs Rancheria of Western Mono Indians of California to ensure meaningful tribal consultation by convening virtual consultation meetings and extending additional flexibilities as appropriate to ensure meaningful consultation.

If you have any questions regarding this request, please contact David Albright, Manager of our Groundwater Protection Section, at 415-972-3971, or via email at Albright.David@epa.gov.

Sincerely,
**TOMAS
TORRES**

Tomás Torres
Director, Water Division

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TOMAS TORRES
Date: 2021.03.16
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Enclosure:

Project Summary and Map for CES

¹ EPA's consultation policy is available at <https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>